

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**ROY JAMES SMITH,  
Plaintiff,**

1

**BRANDON EDWARD HOLDEN,  
RENEE TRUCKING LLC, WENDALL  
C. BARNES, and CON-WAY  
TRUCKLOAD, INC.,  
Defendants.**

**CIVIL ACTION NO. 3:16-cv-119**

## INDEX OF DOCUMENTS

COMES NOW, CON-WAY TRUCKLOAD, INC. (hereinafter referred to as "Defendant"), Defendant in the above-entitled and numbered civil action, and submits this its Index of Documents filed in the State Court Action, pursuant to the Federal Rules of Civil Procedure, and which are attached to Defendant's *Notice of Removal*:

	Document	Date
1.	Civil Case Information Sheet	12/21/15
1.	Plaintiff's Original Petition	12/21/15
2.	Original Answer of Defendant Con-Way Truckload, Inc.	01/14/16
3.	Defendant's Jury Demand	01/15/16
4.	Defendant's Notice of Removal	01/14/16
5.	State Court Docket Sheet	01/14/16



Respectfully submitted,

/s/ D. Randall Montgomery

**D. RANDALL MONTGOMERY**

State Bar No. 14289700

*Rmontgomery@drmlawyers.com*

**ASHLEY A. SMITH**

State Bar No. 24049385

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**D. RANDALL MONTGOMERY**

**& ASSOCIATES, P.L.L.C.**

12400 Coit Road, Suite 560

Dallas, Texas 75251

(214) 292-2600

(469) 568-9323 (Facsimile)

**ATTORNEYS FOR DEFENDANT  
CON-WAY TRUCKLOAD, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument has been served upon all attorneys of record in accordance with the Federal Rules of Civil Procedure on this the 14<sup>th</sup> day of January, 2016.

**CMRRR 9214 7969 0099 9790 1605 7300 19**

Tim Robinson

The Robinson Law Group, LLP

1650 W. Northwest Hwy., Suite 203

Grapevine, TX 76051

/s/ D. Randall Montgomery

**D. RANDALL MONTGOMERY**

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_

COURT (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED Roy James Smith v. Brandon Edward Holden, Renee Trucking LLC, Wendall C. Barnes, and Con-Way Truckload Inc.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:	Person or entity completing sheet is:
Name:  Aaron Robinson	Email:  Aaron.Robinson@TheRobinsonLawgroup.com	Plaintiff(s)/Petitioner(s):  Roy James Smith	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
Address:  400 N. Saint Paul St. Ste. 1140	Telephone:  214-945-1022	Defendant(s)/Respondent(s):  Brandon Edward Holden, Renee Trucking LLC, Wendall C. Barnes, and Con-Way Truckload Inc.	Additional Parties in Child Support Case:  Custodial Parent: _____  Non-Custodial Parent: _____  Presumed Father: _____
City/State/Zip:  Dallas, Texas 75201	Fax:  214-945-1023	[Attach additional page as necessary to list all parties]	
Signature:  _____  24085705	State Bar No:  _____  24085705		

2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil			Family Law	
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)
<input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract:  <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:  	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability:  <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product:  <input type="checkbox"/> Other Injury or Damage:  	<input type="checkbox"/> Eminent Domain/ Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property:  	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children  	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other  <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order  
Employment	Related to Criminal Matters			Other Family Law
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:  	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property  	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:  	<input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus— Pre-indictment <input type="checkbox"/> Other:  	<input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:  
Tax	Probate & Mental Health			
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax  	<input type="checkbox"/> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings  	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment  	<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:  	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover  

3. Indicate procedure or remedy, if applicable (may select more than 1):

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action  	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment  	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover  
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4. Indicate damages sought (do not select if it is a family law case):

<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000  
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DC-15-15275

Cause No. \_\_\_\_\_

ROY JAMES SMITH	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
v.	§	
BRANDON EDWARD HOLDEN,	§	— JUDICIAL DISTRICT
RENEE TRUCKING LLC, WENDALL	§	
C. BARNES, and CON-WAY	§	
TRUCKLOAD INC.	§	
<i>Defendants.</i>	§	DALLAS COUNTY, TEXAS

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**PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURES**

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TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, ROY JAMES SMITH, ("Plaintiff"), complaining of BRANDON EDWARD HOLDEN, RENEE TRUCKING LLC, WENDALL C. BARNES, and CON-WAY TRUCKLOAD INC. (hereinafter collectively "Defendants"), and for such cause of action would respectively show the Court and Jury, the following:

**I. DISCOVERY**

1.01 Pursuant to Rule 190.2 of the Texas Rules of Civil Procedure, discovery is to be conducted under Level 2.

**II. PARTIES**

2.01 Plaintiff ROY JAMES SMITH is an individual who resides in DALLAS COUNTY, TEXAS. The last four digits of Plaintiff's Social Security number are 5371. In addition, the last four numbers of Plaintiff's driver's license are TDL No. 2941.

2.02 Defendant BRANDON EDWARD HOLDEN, a resident of Missouri, can be served with Citation, Plaintiff's Original Petition and Request for Disclosures, and Plaintiff's First set of Written Discovery through the Texas Long Arm Statute via the Texas Secretary of State. Defendant BRANDON EDWARD HOLDEN's last known address is RT 1 Box 90D, Summersville, Missouri 65571.

2.03 Defendant RENEE TRUCKING LLC, can be served with Citation, Plaintiff's Original Petition and Request for Disclosures, and Plaintiff's First set of Written Discovery by and through the Texas Long Arm Statute via the Texas Secretary of State as they do not maintain a Registered Agent in the State of Texas. RENEE TRUCKING LLC's last known registered office address is 414 St Rt W, Mountain View, MO 65548.

2.04 Defendant WENDALL C. BARNES, a resident of Arkansas, can be served with Citation, Plaintiff's Original Petition and Request for Disclosures, and Plaintiff's First set of Written Discovery through the Texas Long Arm Statute via the Texas Secretary of State. Defendant WENDALL C. BARNES' last known address is 19256 Hwy 71, South Boles, Arkansas 72926.

2.05 Defendant CON-WAY TRUCKLOAD INC., can be served with Citation, Plaintiff's Original Petition and Request for Disclosures, and Plaintiff's First set of Written Discovery by and through their Registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at the address of 211 E. 7th Street, Suite 620 Austin, TX 78701-3218 USA.

### III. JURISDICTION AND VENUE

3.01 Venue is proper because all or a substantial part of the events giving rise to this cause of action occurred in Dallas County, Texas.

3.02 Actual damages are within the jurisdictional limits of the Court.

#### IV. FACTS

4.01 On or about January 08, 2014, Plaintiff, ROY JAMES SMITH was in the left hand lane of southbound Highway 75/N. Central Expressway, on block number 13700 in Dallas, Texas.

Plaintiff slowed his vehicle and came to a stop as the vehicles in front of him came to a stop.

4.02 Defendant WENDALL C. BARNES was driving a Kenworth Truck and pulling a Road Systems Inc Trailer traveling in the left hand lane of southbound Highway 75/N. Central Expressway, on block number 13700 in Dallas, Texas. Defendant WENDALL C. BARNES was driving directly behind the Plaintiff.

4.03 Defendant BRANDON EDWARD HOLDEN was driving a Peterbilt Truck and pulling a Transcraft Corp Trailer traveling in the left hand lane of southbound Highway 75/N. Central Expressway, on block number 13700 in Dallas, Texas. Defendant BRANDON EDWARD HOLDEN was driving directly behind Defendant WENDALL C. BARNES.

4.04 While Plaintiff was stopped in traffic, Plaintiff's vehicle was violently struck from behind due to the collective reckless, careless and negligent operation of the respective vehicles of Defendant BRANDON EDWARD HOLDEN and Defendant WENDALL C. BARNES, causing serious injuries to Plaintiff, for which he now sues.

#### V. NEGLIGENCE

##### CLAIMS AGAINST DEFENDANTS

5.01 Plaintiff incorporates by reference, the same as if set forth at length, paragraphs 4.01 through 4.04 above.

5.02 Plaintiff alleges that Defendant BRANDON EDWARD HOLDEN is responsible for numerous acts and/or omissions of negligence including, but not limited to the following:

- ¶ a. Failing to keep a lookout as would have been kept by a person exercising ordinary care and prudence under the same or similar circumstances;
- ¶ b. Failing to make timely and proper application of the brakes on his vehicle as would have been made by a person exercising ordinary care and prudence under the same or similar circumstances;
- ¶ c. Failing to control the speed of the vehicle as a person exercising ordinary care and prudence would have done under the same or similar circumstances;
- ¶ d. Driving in a reckless manner when a person of ordinary prudence would not have done so under the same or similar circumstances; and
- ¶ e. Failing to bring the vehicle to a stop as a person exercising ordinary care and prudence would have done under the same or similar circumstances.
- ¶ f. Failing to maintain assured clear distance as a person exercising ordinary care and prudence would have done under the same or similar circumstances.

5.03 Plaintiff alleges that Defendant RENEE TRUCKING LLC is responsible for Plaintiff's damages for the following act:

- ¶ a. Defendant RENEE TRUCKING LLC is vicariously liable through the theory of *Respondeat Superior* via the conduct and actions of its employee/driver BRANDON EDWARD HOLDEN within the course and scope of his employment.

5.04 Plaintiff alleges that Defendant WENDALL C. BARNES is responsible for numerous acts and/or omissions of negligence including, but not limited to the following:

- a. Failing to keep a lookout as would have been kept by a person exercising ordinary care and prudence under the same or similar circumstances;
- b. Failing to make timely and proper application of the brakes on his vehicle as would have been made by a person exercising ordinary care and prudence under the same or similar circumstances;
- c. Failing to control the speed of the vehicle as a person exercising ordinary care and prudence would have done under the same or similar circumstances;
- d. Driving in a reckless manner when a person of ordinary prudence would not have done so under the same or similar circumstances; and
- e. Failing to bring the vehicle to a stop as a person exercising ordinary care and prudence would have done under the same or similar circumstances.
- f. Failing to maintain assured clear distance as a person exercising ordinary care and prudence would have done under the same or similar circumstances.

5.05 Plaintiff alleges that Defendant CON-WAY TRUCKLOAD INC. is responsible for

Plaintiff's damages for the following act:

- a. Defendant CON-WAY TRUCKLOAD INC. is vicariously liable through the theory of *Respondeat Superior* via the conduct and actions of its employee/driver WENDALL C. BARNES within the course and scope of his employment.

## VI. DAMAGES

6.01 Plaintiff incorporates by reference, the same as if set forth at length, paragraphs 4.01 through 5.05 above.

6.02 Upon trial of this case, Plaintiff ROY JAMES SMITH would show that as a direct and proximate cause of the above described conduct of Defendants, Plaintiff has incurred reasonable and necessary expenses for medical care and attention. Plaintiff would show the medical expenses incurred were for the necessary care and treatment of the injuries resulting from the accident which form the basis of this suit. The charges are reasonable and were the usual and customary charges made for such services. As a result of the injuries sustained by Plaintiff there is a reasonable probability that he will require further medical care and attention and will incur future reasonable and necessary expenses for medical care and attention. Such injuries have further caused Plaintiff a loss of earning in the past and there is a reasonable probability that he will incur a loss of earning capacity in the future. As a further result of the nature and consequences of Plaintiff's injuries, Plaintiff has suffered physical and mental pain, suffering and anguish.

6.03 By reason of the forgoing, Plaintiff has suffered losses and damages as follows:

- (1) Past medical expenses;
- (2) Future medical expenses;
- (3) Pain, suffering, physical impairment and mental anguish in the past;
- (4) Pain, suffering, physical impairment and mental anguish in the future;
- (5) Past lost wages; and

(6) Loss of earning capacity in the future.

Plaintiff has suffered losses and damages in an amount in excess of the minimum jurisdictional limits of the Court. Plaintiff's damages are over \$200,000.00 but not more than \$1,000,000.00.

## **VII. REQUEST FOR DISCLOSURE**

7.01 Defendants are requested to disclose, within 50 days of service of this request, the information or material described in Rule 194.2(a)-(l) of the Texas Rules of Civil Procedure.

## **VIII. JURY DEMAND**

8.01 Plaintiff demands a jury trial and tenders the appropriate fee with this Original Petition.

## **IX. PRAYER**

9.01 WHEREFORE, PREMISES CONSIDERED Plaintiff prays that Defendants be cited to appear and answer and that on final hearing hereof, Plaintiff have judgment against Defendant for the following:

- (1) Actual damages in amount in excess of the minimal jurisdictional limits of the Court;
- (2) Prejudgment and post-judgment interest at the maximum legal amount allowed by law;
- (3) Taxable Court costs;
- (4) For such other and further relief, both general and special, at law or in equity, to which Plaintiff is justly entitled.

Respectfully submitted,

The Robinson Law Group, LLP

/S/ Tim Robinson  
Tim Robinson  
Texas Bar No. 17115450  
Aaron Robinson

Texas Bar No. 24085705  
1650 W. Northwest Hwy, Ste. 203  
Grapevine, Texas 76051  
(T): 817-224-2282  
(F): 817-288-0970  
(E): [Tim.Robinson@TheRobinsonLawGroup.com](mailto:Tim.Robinson@TheRobinsonLawGroup.com)  
Attorneys For Plaintiff

**CAUSE NO. DC-15-15275**

**ROY JAMES SMITH,  
Plaintiff,**

v.

**BRANDON EDWARD HOLDEN,  
RENEE TRUCKING LLC, WENDALL  
C. BARNES, and CON-WAY  
TRUCKLOAD, INC.,  
Defendants.**

§ IN THE DISTRICT COURT OF  
§  
§  
§ DALLAS COUNTY, TEXAS  
§  
§  
§ 44<sup>TH</sup> JUDICIAL DISTRICT

**ORIGINAL ANSWER OF DEFENDANT CON-WAY TRUCKLOAD, INC.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **CON-WAY TRUCKLOAD, INC.** (hereinafter "Defendant"), Defendant in the above-entitled and numbered cause, and makes and files this its Original Answer, showing unto the Court as follows:

**GENERAL DENIAL**

Subject to such stipulations and admissions as may be made hereafter, this Defendant hereby enters a general denial as permitted by Rule 92 of the Texas Rules of Civil Procedure, and requests that Plaintiff be required to prove by a preponderance of the evidence the charges and allegations which he has made against this Defendant and to do so before a jury composed of twelve (12) citizens of this County as is required by the laws and Constitution of the State of Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that judgment be rendered, that Plaintiff takes nothing by this suit and that Defendant be permitted to go hence without delay and recover its costs in its behalf expended, and for such other and further relief, general and specific, legal and equitable, to which Defendant may be justly entitled.

Respectfully submitted,

*/s/ D. Randall Montgomery*

---

**D. RANDALL MONTGOMERY**

State Bar No. 14289700

*Rmontgomery@drmlawyers.com*

**ASHLEY A. SMITH**

State Bar No. 24049385

*asmith@drmlawyers.com*

**D. RANDALL MONTGOMERY**

**& ASSOCIATES, P.L.L.C.**

12400 Coit Road, Suite 560

Dallas, Texas 75251

(214) 292-2600

(469) 568-9323 (Facsimile)

**ATTORNEYS FOR DEFENDANT  
CON-WAY TRUCKLOAD, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument has been served upon all attorneys of record in accordance with the Texas Rules of Civil Procedure on this the 13<sup>th</sup> day of January, 2016.

**CMRR 9214 7969 0099 9790 1605 7298 60**

Tim Robinson

The Robinson Law Group, LLP

1650 W. Northwest Hwy., Suite 203

Grapevine, TX 76051

*/s/ D. Randall Montgomery*

---

**D. RANDALL MONTGOMERY**

Jesse Reyes

**CAUSE NO. DC-15-15275****ROY JAMES SMITH,**  
**Plaintiff,****v.****BRANDON EDWARD HOLDEN,**  
**RENEE TRUCKING LLC, WENDALL**  
**C. BARNES, and CON-WAY**  
**TRUCKLOAD, INC.,**  
**Defendants.****§ IN THE DISTRICT COURT OF**  
§  
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§  
**§ DALLAS COUNTY, TEXAS**  
§  
§  
§  
§  
**§ 44<sup>TH</sup> JUDICIAL DISTRICT****DEFENDANT'S JURY DEMAND**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **CON-WAY TRUCKLOAD, INC.** (hereinafter "Defendant"), and demands a jury trial of all issues of fact in this lawsuit.

The filing of this Jury Demand, however, is not a request that the matter be set for trial at this time or that the matter be placed on the Court's docket at this time.

Respectfully submitted,

*/s/ D. Randall Montgomery***D. RANDALL MONTGOMERY**

State Bar No. 14289700

*Rmontgomery@drmlawyers.com***ASHLEY A. SMITH**

State Bar No. 24049385

*asmith@drmlawyers.com***D. RANDALL MONTGOMERY  
& ASSOCIATES, P.L.L.C.**

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**ATTORNEYS FOR DEFENDANT**

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Tim Robinson  
The Robinson Law Group, LLP  
1650 W. Northwest Hwy., Suite 203  
Grapevine, TX 76051

*/s/ D. Randall Montgomery*

**D. RANDALL MONTGOMERY**



**CAUSE NO. DC-15-15275**

**ROY JAMES SMITH,**  
**Plaintiff,**

**v.**

**BRANDON EDWARD HOLDEN,**  
**RENEE TRUCKING LLC, WENDALL**  
**C. BARNES, and CON-WAY**  
**TRUCKLOAD, INC.,**  
**Defendants.**

**§ IN THE DISTRICT COURT OF**  
**§**  
**§**  
**§**  
**§ DALLAS COUNTY, TEXAS**  
**§**  
**§**  
**§**  
**§**  
**§ 44<sup>TH</sup> JUDICIAL DISTRICT**

**NOTICE OF FILING OF NOTICE OF REMOVAL**

Please take notice that on January 14, 2016, Defendant Con-Way Truckload, Inc. filed a Notice of Removal of the above-captioned action with the United States District Court for the Northern District of Texas, Dallas Division, a copy of which is attached hereto.

Respectfully submitted,

/s/ D. Randall Montgomery

**D. RANDALL MONTGOMERY**

State Bar No. 14289700

*Rmontgomery@drmlawyers.com*

**ASHLEY A. SMITH**

State Bar No. 24049385

*asmith@drmlawyers.com*

**D. RANDALL MONTGOMERY  
& ASSOCIATES, P.L.L.C.**

12400 Coit Road, Suite 560

Dallas, Texas 75251

(214) 292-2600

(469) 568-9323 (Facsimile)

**ATTORNEYS FOR DEFENDANT  
CON-WAY TRUCKLOAD, INC.**

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**CMRR 9214 7969 0099 9790 1605 7300 19**

Tim Robinson  
The Robinson Law Group, LLP  
1650 W. Northwest Hwy., Suite 203  
Grapevine, TX 76051

*/s/ D. Randall Montgomery*  
**D. RANDALL MONTGOMERY**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ROY JAMES SMITH,  
Plaintiff,

v.

BRANDON EDWARD HOLDEN,  
RENEE TRUCKING LLC, WENDALL  
C. BARNES, and CON-WAY  
TRUCKLOAD, INC.,  
Defendants.

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§ CIVIL ACTION NO. \_\_\_\_\_

**DEFENDANT'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, CON-WAY TRUCKLOAD, INC., Defendant in the above-entitled and numbered civil action (hereinafter referred to as "Defendant"), and would respectfully show the Court as follows:

1. Defendant is a party in the above-entitled action now pending in the 44<sup>th</sup> Judicial District Court of Dallas County, Texas, Cause No. DC-15-15275.
2. Roy James Smith (hereinafter "Plaintiff") filed his Original Petition on December 21, 2015. Defendant Con-Way Truckload, Inc. was served with process in this matter on or about December 29, 2015. Defendants Brandon Edward Holden, Renee Trucking LLC, and Wendall C. Barnes have not been served at this time. This Notice of Removal is filed within thirty (30) days of Defendant's receipt of the Petition and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).
3. Removal of this action is proper under 28 U.S.C. §§ 1332(a) and 1441(a) because complete diversity of citizenship exists as among the named parties and because the amount in controversy exceeds \$75,000.00.



4. In Plaintiff's Original Petition, Plaintiff Roy James Smith, who is a citizen and resident of the State of Texas, alleges that on or about January 8, 2014, he was involved in a motor vehicle collision by a truck owned by Defendant Con-Way Truckload, Inc., a corporation with its principal place of business in the State of Missouri. On December 21, 2015, Plaintiff filed suit against the Defendants bringing state law tort claims for negligence and various liability, alleging damages in excess of \$200,000.00 but not more than \$1,000,000.00.

5. At the time Plaintiff filed her state court action, Defendant Con-Way Truckload, Inc. had its principal place of business in the State of Missouri. Likewise, at the time of the filing of this Notice of Removal, Con-Way Truckload, Inc. continues to maintain its principal place of business in the State of Missouri.

7. The District Courts of the United States have diversity jurisdiction when there is complete diversity among the parties and when the amount of controversy exceeds \$75,000. 28 U.S.C. § 1332. Because there is complete diversity of a citizenship, and the amount in controversy exceeds \$75,000.00, this case may properly be removed to this Court pursuant to 28 U.S.C. § 1441(a).

8. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders filed in the state court are attached hereto as Exhibit "A."

9. This matter involves an amount in controversy exceeding \$75,000.

10. Pursuant to 28 U.S.C. § 1446(d), Defendant has given written notice of filing of this Notice of Removal to Plaintiff, and is filing a copy of this Notice of Removal with the Clerk of the 44<sup>th</sup> Judicial District Court of Dallas County, Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant Con-Way Truckload, Inc. prays that the above-mentioned civil action now pending against Defendant in the 44<sup>th</sup> Judicial District

Court of Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

/s/ D. Randall Montgomery

**D. RANDALL MONTGOMERY**

State Bar No. 14289700

*Rmontgomery@drmlawyers.com*

**ASHLEY A. SMITH**

State Bar No. 24049385

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Tim Robinson

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1650 W. Northwest Hwy., Suite 203

Grapevine, TX 76051

/s/ D. Randall Montgomery

**D. RANDALL MONTGOMERY**

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## REGISTER OF ACTIONS

### CASE No. DC-15-15275

ROY SMITH vs. Brandon BRANDON HOLDEN, et al

§  
§  
§  
§  
§

Case Type: OTHER (CIVIL)  
Date Filed: 12/21/2015  
Location: 44th District Court

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#### PARTY INFORMATION

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DEFENDANT Barnes, WENDAL

Lead Attorneys

DEFENDANT CON-WAY TRUCKLOAD INC.

DEFENDANT HOLDEN, Brandon BRANDON EDWARD

DEFENDANT RENEE TRUCKING LLC

PLAINTIFF SMITH, ROY

TIMOTHY S ROBINSON  
*Retained*  
214-945-1022(W)

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#### EVENTS & ORDERS OF THE COURT

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**OTHER EVENTS AND HEARINGS**

12/21/2015 **NEW CASE FILED (OCA) - CIVIL**

12/21/2015 **ORIGINAL PETITION**

*Plaintiff's Original Petition and Request for Disclosures*

12/21/2015 **ISSUE CITATION**

12/21/2015 **ISSUE CITATION COMM OF INS OR SOS**

12/22/2015 **CITATION**

CON-WAY TRUCKLOAD INC.

Served  
Returned

12/29/2015  
01/06/2016

12/22/2015 **CITATION SOS/COI/COH/HAG**

HOLDEN, Brandon BRANDON EDWARD  
RENEE TRUCKING LLC

Unserved  
Unserved

BARNES, WENDAL

Unserved

12/22/2015 **CITATION ISSUED**

01/06/2016 **RETURN OF SERVICE**

*AFFIDAVIT OF RETURN OF SERVICE ON CON-WAY TRUCKLOADS*

01/13/2016 **ORIGINAL ANSWER - GENERAL DENIAL**

*Smith - Original Answer of Defendant Con-Way Truckload, Inc.*

01/13/2016 **JURY DEMAND**

*Smith - Jury Demand*

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#### FINANCIAL INFORMATION

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**DEFENDANT CON-WAY TRUCKLOAD INC.**

Total Financial Assessment

40.00

Total Payments and Credits

40.00

**Balance Due as of 01/14/2016**

0.00

01/14/2016 Transaction Assessment

40.00

01/14/2016 CREDIT CARD - TEXFILE Receipt # 2476-2016-DCLK  
(DC)

CON-WAY TRUCKLOAD INC.

(40.00)

**PLAINTIFF SMITH, ROY**

Total Financial Assessment

331.00

Total Payments and Credits

331.00

**Balance Due as of 01/14/2016**

0.00

12/21/2015 Transaction Assessment

331.00

12/21/2015 CREDIT CARD - TEXFILE Receipt # 74499-2015-DCLK  
(DC)

SMITH, ROY

(331.00)